

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MERCER BUFFINGTON,	:	
	:	
Appellant,	:	
	:	CASE NO. 1995-20
vs.	:	
	:	DECISION
HARRIS COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Mercer Buffington (Appellant) from a decision by the Harris County Board of Education (Local Board) that he is not a resident of Harris County and, therefore, must pay tuition if he wants his children to attend the Harris County schools. Appellant claims that the Local Board based its decision on erroneous information rather than on his intent. The Local Board's decision is sustained.

Appellant owns a business in Harris County, but lives in a house he owns in Talbot County while he is renovating another house he owns in Harris County. The Harris County Tax Commissioner refused to sell automobile tags to Appellant based upon the Commissioner's determination that Appellant was not a resident of Harris County. Based upon these factors, the Local Board decided that Appellant was not a resident of Harris County and would have to pay tuition if he wanted his children to attend the Harris County schools.

Appellant claims that the Local Board based its decision on erroneous information concerning the house he is renovating, and the fact that he did not have a homestead exemption on the Harris County house, and is not registered to vote in Harris County. Appellant claims that he has not applied for a homestead exemption in any county, and is not registered to vote in any county. He claims that he is living in Talbot County only until he can complete the renovation of his Harris County house and it is his intent to be a resident of Harris County. "The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991).

In this case, it is undisputed that Appellant is presently living in Talbot County. Appellant's subjective intent to live in Harris County sometime in the future is not controlling. The State Board of Education, therefore, concludes that the Local Board's decision was not arbitrary or capricious and was supported by some evidence.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board's decision is supported by some evidence and is neither arbitrary nor capricious. The Local Board's decision, therefore, is SUSTAINED.

This 8th day of June, 1995.

Robert M. Brinson
Vice Chairman for Appeals